

REMARKS

Applicants have cancelled Claim 36 without prejudice.

Applicants have added new Claims 41-50, directed to the specific compounds elected. No new matter is believed to be added by entry of these amendments. Claims 1-35 and 37-50 are in the case, of which Claims 1-4, 9-30, 32-35, and 38-50 are active.

The Office has required restriction in the present application as follows:

- Group I: Claims 5-8, drawn to a peptide of 10 or 11 residues having the amino acid sequence of SEQ ID NO: 1 or 2;
- Group II: Claims 9-29, 35, and 38-40, drawn to a benzene derivative having various formulas; to an agent for treating an autoimmune disease or a disease related to overexpression of AP-1 comprising the compound; or to an AP-1 inhibitor comprising the compound; and
- Group III: Claims 31 and 37, drawn to a method for inhibiting activator protein -1 (AP-1) comprising administering a compound of formula I or a benzene derivative of Claim 9.

Restriction is only proper if the claims of the restricted groups are either independent or patentably distinct. The burden of proof is on the office to provide reasons and/or examples to support any conclusion with regard to patentable distinctness. M.P.E.P. § 803.

Applicants respectfully traverse the requirement for restriction on the grounds that the Office has improperly applied the restriction practice under 35 U.S.C. § 121 to the national stage of an application under 35 U.S.C. § 371.

This application is a 371 of PCT/JP99/06166, filed November 5, 1999, and is properly subject to restriction only under the PCT rules. As noted in M.P.E.P. § 1895.01(D), restriction practice under 35 U.S.C. § 121, as it applies to national applications submitted under 35 U.S.C. § 111(a), is not applicable to a national stage application such as this one.

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Applicants also respectfully note that the PCT administrative instructions in M.P.E.P. annex B, Part 1 provide direction on restriction practice under the PCT rules. Accordingly, since the Office has not made out a proper case of restriction under the PCT rules, the Requirement for Restriction should be withdrawn.

In addition, M.P.E.P. § 803 states:

“If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.”

Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office.

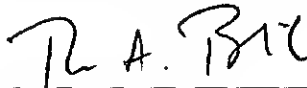
Accordingly, and for the reasons presented above, Applicants submit that the Office has failed to meet the burden necessary in order to sustain the Requirement for Restriction.

Applicants therefore request that the Requirement for Restriction be withdrawn.

Applicants respectfully submit that the above-identified application is now in condition for examination on the merits, and early notice thereof is earnestly solicited.

Respectfully submitted,

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